

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

KENNETH LOWMAN,

Plaintiff,

No. 21-12080

v.

Honorable Nancy G. Edmunds

GENERAL MOTORS CORPORATION,
et al.,

Defendants.

_____ /

**ORDER ACCEPTING AND ADOPTING MAGISTRATE JUDGE'S REPORT AND
RECOMMENDATION [15] TO DISMISS COMPLAINT WITH PREJUDICE FOR
FAILURE TO PROSECUTE**

This matter is before the Court on the Magistrate Judge's May 5, 2022 report and recommendation. (ECF No. 15.) The Magistrate Judge recommended that the Court dismiss Plaintiff's complaint with prejudice for failure to prosecute. On October 6, 2021, two of the defendants filed a motion to dismiss. (ECF No. 12.) On October 27, 2021, a third defendant filed a response in concurrence with the motion to dismiss. (ECF No. 13.) On April 8, 2022, the Magistrate Judge ordered Plaintiff to show cause why his complaint should not be dismissed for failure to prosecute. (ECF No. 14.) Plaintiff did not respond to the Court's order to show cause or the defendants' motion to dismiss.

The Report and Recommendation gave the parties notice that they had 14 days to serve and file written objections to the Report and Recommendation. (ECF No. 15.) On May 19, 2022, Plaintiff filed with this court two documents including a "Request To Dismiss Complaint Without Prejudice." (ECF Nos. 16, 17.) One of these documents

contains a single objection: Plaintiff objects to the case being dismissed with prejudice and asks the Court to dismiss the case without prejudice. (ECF No. 17.) This objection is accompanied by an allegation that the termination notice sent to Plaintiff by Defendant General Motors Corporation is a “fraudulent document” because it is dated July 21, 2015, and “[t]he actual correct document is dated 05/06/2015.” (ECF No. 17 PageID.118.) Plaintiff provides this document and three others with his objection. Plaintiff does not identify the relevance of any of these documents other than to assert that the UAW and General Motors have made “untruthful statements” to the Court. These documents were not the subject of the Magistrate Judge’s report and recommendation and their relevance to the dismissal of Plaintiff’s complaint with prejudice for failure to prosecute is not evident. Plaintiff provides no basis for a determination that this dismissal pursuant to Fed. R. Civ. P. 41(b) should not operate as “an adjudication on the merits.” Fed. R. Civ. P. 41(b).

The Magistrate Judge properly ordered Plaintiff to show cause for his failure to respond to the defendants’ pending motion to dismiss. Upon Plaintiff’s failure to respond to the motion and the order to show cause, the Magistrate Judge correctly relied on Fed. R. Civ. P. 41(b), as well as considering the four factors set forth by the Sixth Circuit in deciding whether a case should be dismissed for failure to prosecute. See ECF No. 15; *see also Knoll v. AT&T*, 176 F.3d 359, 363 (6th Cir. 1999); *and Schafer v. City of Defiance Police Dept.*, 529 F.3d 731 (6th Cir. 2008) (“Rule 41(b) . . . confers on the district courts the authority to dismiss an action for failure of a plaintiff to prosecute the claim or to comply with the Rules or any order of the court.” *Citing Knoll*, 176 F.3d at 362-63.).

Being fully advised in the premises, having read the pleadings, and for the reasons set forth above, the Court denies Plaintiff’s objection and ACCEPTS and ADOPTS the

Magistrate Judge's report and recommendation (ECF no. 15), and dismisses Plaintiff's complaint with prejudice.

SO ORDERED.

s/Nancy G. Edmunds
Nancy G. Edmunds
United States District Judge

Dated: May 24, 2022

I hereby certify that a copy of the foregoing document was served upon counsel of record on May 24, 2022, by electronic and/or ordinary mail.

s/Lisa Bartlett
Case Manager